

1 JOSEPH J & JANET M COYER
 2 878 EAST PREVO ROAD
 3 PINCONNING MI48650
 4 989-225-0952

Case 1:10-cv-14339
 Judge: Ludington, Thomas L
 MJ: Binder, Charles E
 Filed: 10-28-2010 At 02:57 PM
 CMP Joseph J Coyer, et al v. HSBC M
 ortgage Services [bks]

P A I D
BL 000732

5 UNITED STATES DISTRICT COURT
 6 EASTERN DISTRICT OF MICHIGAN

7
 8 Joseph J & Janet M Coyer) Case # _____
 9 Plaintiff,)
 10)
 11 vs.) ORIGINAL PETITION
 12)
 13)
 14 HSBC Mortgage Services)
 15 Defendant)
 16 _____)
 17 Date: October 28, 2010

18 Comes now, Joseph J & Janet M Coyer, hereinafter referred to as "Petitioner," and moves the
 19 court for relief as herein requested:

20 **PARTIES**

21 Petitioners are Joseph J & Janet M Coyer, 878 East Prevo Road, Pinconning, MI 48650.
 22 Currently known defendant is HSBC Mortgage Services, PO Box 9068, Brandon, FL 33509.

23 **STATEMENT OF CAUSE**

24 Petitioners, Joseph J and Janet M Coyer, entered into a consumer contract for the purchase of a
 25 primary residence located at 878 East Prevo Road, Pinconning, MI 48650, hereinafter referred to
 26 as the "property."

27 Defendants, acting in concert and collusion with others, induced Petitioner to enter into a
 28 predatory loan agreement with Defendant.

29 Defendants committed numerous acts of fraud against Petitioner in furtherance of a carefully
 30 crafted scheme intended to defraud Petitioner.

31 Defendants failed to make proper notices to Petitioner that would have given Petitioner warning
 32 of the types of tactics used by Defendants to defraud Petitioner.

33 Defendants charged false fees to Petitioner at settlement.

34 Defendants used the above referenced false fees to compensate agents of Petitioner in order to
 35 induce said agents to breach their fiduciary duty to Petitioner.

36 Defendant's attorney caused to be initiated collection procedures, knowing sai collection
 37 procedures in the instant action were frivolous as lender is estopped from collection procedures,
 38 under authority of Uniform Commercial Code 3-501, subsequent to the request by Petitioner for
 39 the production of the original promissory note alleged to create a debt.

40 **IN BRIEF**

41 *(Non-factual Statement of Posture and Position)*

42 It is not the intent of Petitioner to indict the entire industry. It is just that Plaintiff will be
 43 making a number of allegations that, outside the context of the current condition of the real
 44 estate industry, may seem somewhat outrageous and counter-intuitive.

45 When Petitioner accuses ordinary individuals of acting in concert and collusion with an
 46 ongoing criminal conspiracy, it tends to trigger an incredulous response as it is
 47 unreasonable to consider that all Agents, loan agents, appraisers, and other ordinary
 48 people, just doing what they have been trained to do, are out to swindle the poor
 49 unsuspecting borrower.

50 The facts Petitioner is prepared to prove are that Petitioner has been harmed by fraud
 51 committed by people acting in concert and collusion, one with the other. Petitioner has no
 52 reason to believe that the Agent, loan officer, appraiser, and others were consciously aware
 53 that what they were doing was part of an ongoing criminal conspiracy, only that it was,
 54 and they, at the very least, kept themselves negligently uninformed of the wrongs they
 55 were perpetrating. Petitioner maintains the real culprit is the system itself, including the
 56 courts, for failure to strictly enforce the consumer protection laws.

57 **CAREFULLY CRAFTED CRIMINAL CONNIVANCE**

58 *(General State of the Real Estate Industry)*

59 **THE BEST OF INTENTIONS**

60 Prior to the 1980's and 1990's ample government protections were in place to protect
 61 consumers and the lending industry from precisely the disaster we now experience.
 62 During President Clinton's administration, under the guise of making housing available to
 63 the poor, primary protections were relaxed which had the effect of releasing the
 64 unscrupulous on the unwary.

65 Prior to deregulation in the 1980's, lenders created loans for which they held and assumed
 66 the risk. Consequently, Americans were engaged in safe and stable home mortgages.

67 With the protections removed, the unscrupulous lenders swooped in and, instead of
68 making loans available to the poor, used the opportunity to convince the unsophisticated
69 American public to do something that had been traditionally taboo; home buyers were
70 convinced to speculate with their homes, their most important investment.

71 HSBC Mortgage Services , Ameriquest, Countrywide, and many others swooped in and
72 convinced Americans to sell their homes, get out of their safe mortgage agreements, and
73 speculate with the equity they had gained by purchasing homes they could not afford.
74 Lenders created loans intended to fail as, under the newly crafted system, the Lender
75 profited more from a mortgage default than from a stable loan.

76 Companies cropped up who called themselves banks when, in fact, they were only either
77 subsidiaries of banks, or unaffiliated companies that were operated for the purpose of
78 creating and selling promissory notes. As will be demonstrated, these companies then
79 profited from the failure of the underlying loans.

80 ***HOW IT WORKS***

81 Briefly, how it works is this, the Lender would secure a large loan from a large bank,
82 convert that loan into 20 and 30 year mortgages and then sell the promise to pay to an
83 investor.

84 People would set up mortgage companies by securing a large loan from one of the major
85 banks, then convert that loan into 20 and 30 year mortgages. In order to accomplish this
86 an Agent would contract with a seller to find a buyer, bring both seller and buyer to a
87 lender who would secure the title from the seller using the borrowed bank funds for that
88 purpose, and then trade the title to the buyer in exchange for a promissory note.

89 The lender then creates a 20 or 30 year mortgage with money the lender must repay within
90 6 months. As soon as the closing is consummated, the promissory note is sold to an
91 investor pool.

92 Using the instant case as an example, a 182,000.00 note at 9.1840% interest over 30 years
93 will produce \$172,991.21 The lender can then offer to the investor the security instrument
94 (promissory note) at say 50% of it's future value. The investor will, over the life of the
95 note, less approximately 3.00% servicing fees, realize \$261,045.92 . The lender can then
96 pay back the bank and retain a handsome profit in the amount of \$95,193.09. The lender,
97 however, is not done with the deal.

98 The lender signed over the promissory note to the investor at the time of the trade, but did
99 not sign over the lien document (mortgage or deed of trust). The State of Kansas Supreme
100 Court addressed this issue and stated that such a transaction was certainly legal. However,
101 it created a fatal flaw as the holder of the lien document, at time of sale of the security
102 instrument, received consideration in excess of the lien amount. Since the lien holder
103 received consideration, he could not be harmed. Therefore the lien became an
104 unenforceable document.

105 This begs the question: if keeping the lien would render it void, why would the lender not
106 simply transfer the lien with the promissory note? The reason is because the lender will
107 hold the lien for three years, file an Internal Revenue Service Form 1099a, claim the full
108 amount of the lien as abandoned funds, and deduct the full amount from the lender's tax
109 liability. The lender, by this maneuver, gets consideration a second time. And still the
110 lender is not done profiting from the deal.

111 After sale of the promissory note, the lender remains as the servicer for the investor. The
112 lender will receive 3% of each payment the lender collects and renders to the investor
113 pool. However, if the payment is late, the lender is allowed to assess an extra 5% and keep
114 that amount. Also, if the loan defaults, the lender stands to gain thousands for handling the
115 foreclosure.

116 The lender stands to profit more from a note that is overly expensive, than from a good
117 stable loan. And where, you may ask, does all this profit come from? It comes from the
118 equity the borrower had built up in the home. And still the lender is not finished profiting
119 from the deal.

120 Another nail was driven in the American financial coffin when on the last day Congress
121 was in session in 2000 when restrictions that had been in place since the economic
122 collapse of 1907 were removed. Until 1907 investors were allowed to bet on stocks
123 without actually buying them. This unbridled speculation led directly to an economic
124 collapse. As a result the legislature banned the practice, until the year 2000. In 2000 the
125 unscrupulous lenders got their way on the last day of the congressional session. Congress
126 removed the restriction banning derivatives and again allowed the practice, this time
127 taking only 8 years to crash the stock market. This practice allowed the lender to profit
128 further from the loan by betting on the failure of the security instrument he had just sold to
129 the unwary investor, thus furthering the purpose of the lender to profit from both the
130 borrower (consumer) and the investor.

131 The failure of so many loans recently resulted in a seven hundred and fifty billion dollar
132 bailout at the expense of the taxpayer. The unsuspecting consumer was lulled into
133 accepting the pronouncements of the lenders, appraisers, underwriters, and trustees as all
134 were acting under the guise of government regulation and, therefore, the borrower had
135 reason to expect good and fair dealings from all. Unfortunately, the regulations in place to
136 protect the consumer from just this kind of abuse were simply being ignored.

137 The loan origination fee from the HUD1 settlement statement is the finder's fee paid for
138 the referral of the client to the lender by a person acting as an agent for the borrower.
139 Hereinafter, the person or entity who receives any portion of the yield spread premium, or
140 a commission of any kind consequent to securing the loan agreement through from the
141 borrower will be referred to as "Agent." The fee, authorized by the consumer protection
142 law is restricted to 1% of the principal of the note. It was intended that the Agent, when
143 seeking out a lender for the borrower, would seek the best deal for his client rather than
144 who would pay him the most. That was the intent, but not the reality. The reality is that
145 Agents never come away from the table with less than 2% or 3% of the principal. This is
146 accomplished by undisclosed fees to the Agent in order to induce the Agent to breach his
147 fiduciary duty to the borrower and convince the borrower to accept a more expensive loan
148 product than the borrower qualifies for. This will generate more profits for the lender and,
149 consequently, for the Agent.

150 It is a common practice for lenders to coerce appraisers to give a higher appraisal than is
151 the fair market price. This allows the lender to increase the cost of the loan product and
152 give the impression that the borrower is justified in making the purchase.

153 The lender then charges the borrower an underwriting fee in order to convince the
154 borrower that someone with knowledge has gone over the conditions of the note and
155 certified that they meet all legal criteria. The trustee, at closing, participates actively in the
156 deception of the borrower by placing undue stress on the borrower to sign the large stack
157 of paperwork without reading it. The trustee is, after all, to be trusted and has been paid to
158 insure the transaction. This trust is systematically violated for the purpose of taking unfair
159 advantage of the borrower. The entire loan process is a carefully crafted contrive
160 connivance designed and intended to induce the unsophisticated borrower into accepting a
161 loan product that is beyond the borrowers means to repay. With all this, it should be a
162 surprise to no one that this country is having a real estate crisis.

163 **PETITIONER WILL PROVE THE FOLLOWING**

164 Petitioner is prepared to prove, by a preponderance of evidence that:

- 165 • Lender has no legal standing to bring collection or foreclosure claims against the
166 property;
- 167 • Lender is not a real party in interest in any contract which can claim a collateral
168 interest in the property;
- 169 • even if Lender were to prove up a contract to which Lender had standing to enforce
170 against Petitioner, no valid lien exists which would give Lender a claim against the
171 property;
- 172 • even if Lender were to prove up a contract to which Lender had standing to enforce
173 against Petitioner, said contract was fraudulent in its creation as endorsement was
174 secured by acts of negligence, common law fraud, fraud by non-disclosure, fraud in
175 the inducement, fraud in the execution, usury, and breaches of contractual and
176 fiduciary obligations by Mortgagee or "Trustee" on the Deed of Trust, "Mortgage
177 Agents," "Loan Originators," "Loan Seller," "Mortgage Aggregator," "Trustee of
178 Pooled Assets," "Trustee or officers of Structured Investment Vehicle,"
179 "Investment Banker," "Trustee of Special Purpose Vehicle/Issuer of Certificates of
180 'Asset-Backed Certificates,'" "Seller of 'Asset-Backed' Certificates (shares or
181 bonds)," "Special Servicer" and Trustee, respectively, of certain mortgage loans
182 pooled together in a trust fund;
- 183 • Defendants have concocted a carefully crafted connivance wherein Lender
184 conspired with Agents, et al, to strip Petitioner of Petitioner's equity in the property
185 by inducing Plaintiff to enter into a predatory loan inflated loan product;
- 186 • Lender received unjust enrichment in the amount of 5% of each payment made late
187 to Lender while Lender and Lender's assigns acted as servicer of the note;
- 188 • Lender and Lender's assigns, who acted as servicer in place of Lender, profited by
189 handling the foreclosure process on a contract Lender designed to have a high
190 probability of default;
- 191 • Lender intended to defraud Investor by converting the promissory note into a
192 security instrument and selling same to Investor;

- Lender intended to defraud Investor and the taxpayers of the United States by withholding the lien document from the sale of the promissory note in order that Lender could then hold the lien for three years, then prepare and file Internal Revenue Form 1099a and falsely claim the full lien amount as abandoned funds and deduct same from Lender's income tax obligation;
- Lender defrauded backers of derivatives by betting on the failure of the promissory note the lender designed to default;
- participant Defendants, et al, in the securitization scheme described herein have devised business plans to reap millions of dollars in profits at the expense of Petitioner and others similarly situated.

PETITIONER SEEKS REMEDY

In addition to seeking compensatory, consequential and other damages, Petitioner seeks declaratory relief as to what (if any) party, entity or individual or group thereof is the owner of the promissory note executed at the time of the loan closing, and whether the Deed of Trust (Mortgage) secures any obligation of the Petitioner, and a Mandatory Injunction requiring re-conveyance of the subject property to the Petitioner or, in the alternative a Final Judgment granting Petitioner Quiet Title in the subject property.

PETITIONER HAS BEEN HARMED

Petitioner has suffered significant harm and detriment as a result of the actions of Defendants. Such harm and detriment includes economic and non-economic damages, and injuries to Petitioner's mental and emotional health and strength, all to be shown according to proof at trial. In addition, Petitioner will suffer grievous and irreparable further harm and detriment unless the equitable relief requested herein is granted.

STATEMENT OF CLAIM

DEFENDANTS LACK STANDING

No evidence of Contractual Obligation

Defendants claim a controversy based on a contractual violation by Petitioner but have failed to produce said contract. Even if Defendants produced evidence of the existence of said contract in

221 the form of an allegedly accurate photocopy of said document, a copy is only hearsay evidence
 222 that a contract actually existed at one point in time. A copy, considering the present state of
 223 technology, could be easily altered. As Lender only created one original and that original was
 224 left in the custody of Lender, it was imperative that Lender protect said instrument.

225 In as much as the Lender is required to present the original on demand of Petitioner, there can be
 226 no presumption of regularity when the original is not so produced. In as much as Lender has
 227 refused Petitioner's request of the chain of custody of the security instrument in question by
 228 refusing to identify all current and past real parties in interest, there is no way to follow said
 229 chain of custody to insure, by verified testimony, that no alterations to the original provisions in
 230 the contract have been made. Therefore, the alleged copy of the original is only hearsay
 231 evidence that an original document at one time existed. Petitioner maintains that, absent
 232 production of admissible evidence of a contractual obligation on the part of Petitioner,
 233 Defendants are without standing to invoke the subject matter jurisdiction of the court.

234 **No Proper Evidence of Agency**

235 Defendants claim agency to represent the principal in a contractual agreement involving
 236 Petitioner, however, Defendants have failed to provide any evidence of said agency other than a
 237 pronouncement that agency has been assigned by some person, the true identity and capacity of
 238 whom has not been established. Defendants can hardly claim to be agents of a principal then
 239 refuse to identify said principal. All claims of agency are made from the mouth of the agent with
 240 no attempt to provide admissible evidence from the principal.

241 Absent proof of agency, Defendants lack standing to invoke the subject matter jurisdiction of the
 242 court.

243 **Special Purpose Vehicle**

244 Since the entity now claiming agency to represent the holder of the security instrument is not the
 245 original lender, Petitioner has reason to believe that the promissory note, upon consummation of
 246 the contract, was converted to a security and sold into a special purpose vehicle and now resides
 247 in a Real Estate Mortgage Investment Conduit (REMIC) as defined by the Internal Revenue
 248 Code and as such, cannot be removed from the REMIC as such would be a prohibited
 249 transaction. If the mortgage was part of a special purpose vehicle and was removed on
 250 consideration of foreclosure, the real party in interest would necessarily be the trustee of the

251 special purpose vehicle. Nothing in the pleadings of Defendants indicates the existence of a
 252 special purpose vehicle, and the lack of a proper chain of custody documentation gives Petitioner
 253 cause to believe defendant is not the proper agent of the real party in interest.

254 ***CRIMINAL CONSPIRACY AND THEFT***

255 Defendants, by and through Defendant's Agents, conspired with other Defendants, et al, toward
 256 a criminal conspiracy to defraud Petitioner. Said conspiracy but are not limited to acts of
 257 negligence, breach of fiduciary duty, common law fraud, fraud by non-disclosure, and tortious
 258 acts of conspiracy and theft, to include but not limited to, the assessment of improper fees to
 259 Petitioner by Lender, which were then used to fund the improper payment of commission fees to
 260 Agent in order to induce Agent to violate Agent's fiduciary duty to Petitioner.

261 ***AGENT PRACTICED UP-SELLING***

262 By and through the above alleged conspiracy, Agent practiced up-selling to Petitioner. In so
 263 doing, Agent violated the trust relationship actively cultivated by Agent and supported by fact
 264 that Agent was licensed by the state. Agent further defrauded Petitioner by failing to disclose
 265 Agent's conspiratorial relationship to Lender, Agent violated Agent's fiduciary duty to
 266 Petitioner and the duty to provide fair and honest services, through a series of carefully crafted
 267 connivances, wherein Agent proactively made knowingly false and misleading statements of
 268 alleged fact to Petitioner, and by giving partial disclosure of facts intended to directly mislead
 269 Petitioner for the purpose of inducing Petitioner to make decisions concerning the acceptance of
 270 a loan product offered by the Lender. Said loan product was more expensive than Petitioner
 271 could legally afford. Agent acted with full knowledge that Petitioner would have made a
 272 different decision had Agent given complete disclosure.

273 ***FRAUDULENT INDUCEMENT***

274 Lender maliciously induced Petitioner to accept a loan product, Lender knew, or should have
 275 known, Petitioner could not afford in order to unjustly enrich Lender.

276 ***EXTRA PROFIT ON SALE OF PREDATORY LOAN PRODUCT***

277 Said more expensive loan product was calculated to produce a higher return when sold as a
 278 security to an investor who was already waiting to purchase the loan as soon as it could be
 279 consummated.

280

Extra Commission for Late Payments

281 Lender acted with deliberate malice in order to induce Petitioner to enter into a loan agreement
 282 that Lender intended Petitioner would have difficulty paying. The industry standard payment to
 283 the servicer for servicing a mortgage note is 3% of the amount collected. However, if the
 284 borrower is late on payments, a 5% late fee is added and this fee is retained by the servicer.
 285 Thereby, the Lender stands to receive more than double the regular commission on collections if
 286 the borrower pays late.

287

Extra Income for Handling Foreclosure

288 Lender acted with deliberate malice in order to induce petitioner to enter into a loan agreement
 289 on which Lender intended petitioner to default. In case of default, the Lender, acting as servicer,
 290 receives considerable funds for handling and executing the foreclosure process.

291

Credit Default Swap Gambling

292 Lender, after deliberately creating a loan intended to default is now in a position to bet on credit
 293 default swap, commonly referred to as a derivative as addressed more fully below. Since Lender
 294 designed the loan to fail, betting on said failure is essentially a sure thing.

295

LENDER ATTEMPTING TO FRAUDULENTLY COLLECT ON VOID LIEN

296 Lender sold the security instrument after closing and received consideration in an amount in
 297 excess of the lien held by Lender. Since Lender retained the lien document upon the sale of the
 298 security instrument, Lender separated the lien from said security instrument, creating a fatal and
 299 irreparable flaw.

300 When Lender received consideration while still holding the lien and said consideration was in
 301 excess of the amount of the lien, Lender was in a position such that he could not be harmed and
 302 could not gain standing to enforce the lien. The lien was, thereby, rendered void.

303 Since the separation of the lien from the security instrument creates such a considerable concern,
 304 said separation certainly begs a question: "Why would the Lender retain the lien when selling the
 305 security instrument?"

306 When you follow the money the answer is clear. The Lender will hold the lien for three years,
 307 then file an IRS Form 1099a and claim the full amount of the lien as abandoned funds and deduct
 308 the full amount from Lender's tax liability, thereby, receiving consideration a second time.

309 Later, in the expected eventuality of default by petitioner, Lender then claimed to transfer the
 310 lien to the holder of the security, however, the lien once satisfied, does not gain authority just
 311 because the holder, after receiving consideration, decides to transfer it to someone else.

312 ***LENDER PROFIT BY CREDIT DEFAULT SWAP DERIVATIVES***

313 Lender further stood to profit by credit default swaps in the derivatives market, by way of inside
 314 information that Lender had as a result of creating the faulty loans sure to default. Lender was
 315 then free to invest on the bet that said loan would default and stood to receive unjust enrichment
 316 a third time. This credit default swap derivative market scheme is almost totally responsible for
 317 the stock market disaster we now experience as it was responsible for the stock market crash in
 318 1907.

319 ***LENDER CHARGED FALSE FEES***

320 Lender charged fees to Petitioner that were in violation of the limitations imposed by the Real
 321 Estate Settlement Procedures Act as said fees were simply contrived and not paid to a third party
 322 vendor.

323 Lender charged other fees that were a normal part of doing business and should have been
 324 included in the finance charge.

325 Below is a listing of the fees charged at settlement. Neither at settlement, nor at any other time
 326 did Lender or Trustee provide documentation to show that the fees herein listed were valid,
 327 necessary, reasonable, and proper to charge Petitioner.

808	Tax Service Contract Fee	\$65.00
809	Flood Certification Fee	\$12.00
810	Underwriting Fee	\$650.00
811	Processing Fee	\$595.00
812	Funding Fee	\$50.00
901	Interest	\$276.01
1101	Settlement fee	\$275.00
1111	Loan Policy Simultaneous	\$368.80
1201	Recording Fee	\$62.00

328 Debtor is unable to determine whether or not the above fees are valid in accordance with the
 329 restrictions provided by the various consumer protection laws. Therefore, please provide; a
 330 complete billing from each vendor who provided the above listed services; the complete contact
 331 information for each vendor who provided a billed service; clearly stipulate as to the specific
 332 service performed; a showing that said service was necessary; a showing that the cost of said
 333 service is reasonable; a showing of why said service is not a regular cost of doing business that
 334 should rightly be included in the finance charge.

335 The above charges are hereby disputed and deemed unreasonable until such time as said charges
 336 have been demonstrated to be reasonable, necessary, and in accordance with the limitations and
 337 restrictions included in any and all laws, rules, and regulations intended to protect the consumer.

338 In the event lender fails to properly document the above charges, borrower will consider same as
 339 false charges. The effect of the above amounts that borrower would pay over the life of the note
 340 will be an overpayment of \$183,247.80 This amount will be reduced by the amount of items
 341 above when said items are fully documented.

342 **RESPA PENALTY**

343 From a cursory examination of the records, with the few available, the apparent RESPA
 344 violations are as follows: Good Faith Estimate not within limits, No HUD-1 Booklet, Truth In
 345 Lending Statement not within limits compared to Note, Truth in Lending Statement not timely
 346 presented, HUD-1 not presented at least one day before closing, No Holder Rule Notice in Note,
 347 No 1st Payment Letter.

348 The closing documents included no signed and dated : Financial Privacy Act Disclosure; Equal
 349 Credit Reporting Act Disclosure; notice of right to receive appraisal report; servicing disclosure
 350 statement; borrower's Certification of Authorization; notice of credit score; RESPA servicing
 351 disclosure letter; loan discount fee disclosure; business insurance company arrangement
 352 disclosure; notice of right to rescind.

353 The courts have held that the borrower does not have to show harm to claim a violation of the
 354 Real Estate Settlement Procedures Act, as the Act was intended to insure strict compliance. And,
 355 in as much as the courts are directed to assess a penalty of no less than two hundred dollars and
 356 no more than two thousand, considering the large number enumerated here, it is reasonable to
 357 consider that the court will assess the maximum amount for each violation.

358 Since the courts have held that the penalty for a violation of RESPA accrues at consummation of
359 the note, borrower has calculated that, the number of violations found in a cursory examination
360 of the note, if deducted from the principal, would result in an overpayment on the part of the
361 borrower, over the life of the note, of \$246,162.52.

362 If the violation penalty amounts for each of the unsupported fees listed above are included, the
363 amount by which the borrower would be defrauded is \$302,086.22

364 Adding in RESPA penalties for all the unsupported settlement fees along with the TILA>Note
365 variance, it appears that lender intended to defraud borrower in the amount of \$966,071.39

366 ***LENDER CONSPIRED WITH APPRAISER***

367 Lender, in furtherance of the above referenced conspiracy, conspired with appraiser for the
368 purpose of preparing an appraisal with a falsely stated price, in violation of appraiser's fiduciary
369 duty to Petitioner and appraiser's duty to provide fair and honest services, for the purpose of
370 inducing Petitioner to enter into a loan product that was fraudulent toward the interests of
371 Petitioner.

372 ***LENDER CONSPIRED WITH TRUSTEE***

373 Lender conspired with the trust Agent at closing to create a condition of stress for the specific
374 purpose of inducing Petitioner to sign documents without allowing time for Petitioner to read and
375 fully understand what was being signed.

376 The above referenced closing procedure was a carefully crafted connivance, designed and
377 intended to induce Petitioner, through shame and trickery, in violation of trustee's fiduciary duty
378 to Petitioner and the duty to provide fair and honest services, to sign documents that Petitioner
379 did not have opportunity to read and fully understand, thereby, denying Petitioner full disclosure
380 as required by various consumer protection statutes.

381 ***DECEPTIVE ADVERTISING AND OTHER UNFAIR BUSINESS PRACTICES***

382 In the manner in which Defendants have carried on their business enterprises, they have engaged
383 in a variety of unfair and unlawful business practices prohibited by *15 USC Section 45 et seq.*
384 (Deceptive Practices Act).

385 Such conduct comprises a pattern of business activity within the meaning of such statutes, and
 386 has directly and proximately caused Petitioner to suffer economic and non-economic harm and
 387 detriment in an amount to be shown according to proof at trial of this matter.

388 ***EQUITABLE TOLLING FOR TILA AND RESPA***

389 The Limitations Period for Petitioners' Damages Claims under TILA and RESPA should be
 390 Equitably Tolled due to the DEFENDANTS' Misrepresentations and Failure to Disclose.

391 Any claims for statutory and other money damages under the Truth in Lending Act (*15 U.S.C. §*
 392 *1601*, et. seq.) and under the Real Estate Settlement Procedures Act (*12 U.S.C. § 2601* et. seq.)
 393 are subject to a one-year limitations period; however, such claims are subject to the equitable
 394 tolling doctrine. The Ninth Circuit has interpreted the TILA limitations period in § 1640(e) as
 395 subject to equitable tolling. In *King v. California*, 784 F.2d 910 (9th Cir.1986), the court held
 396 that given the remedial purpose of TILA, the limitations period should run from the date of
 397 consummation of the transaction, but that "the doctrine of equitable tolling may, in appropriate
 398 circumstances, suspend the limitations period until the borrower discovers or has reasonable
 399 opportunity to discover the fraud or nondisclosures that form the basis of the TILA action." *King*
 400 *v. California*, 784 F.2d 910, 915 9th Cir. 1986).

401 Likewise, while the Ninth Circuit has not taken up the question whether *12 U.S.C. § 2614*, the
 402 anti-kickback provision of RESPA, is subject to equitable tolling, other Courts have, and hold
 403 that such limitations period may be equitably tolled. The Court of Appeals for the District of
 404 Columbia held that § 2614 imposes a strictly jurisdictional limitation, *Hardin v. City Title &*
 405 *Escrow Co.*, 797 F.2d 1037, 1039-40 (D.C. Cir. 1986), while the Seventh Circuit came to the
 406 opposite conclusion. *Lawyers Title Ins. Corp. v. Dearborn Title Corp.*, 118 F.3d 1157, 1164 (7th
 407 Cir. 1997). District courts have largely come down on the side of the Seventh Circuit in holding
 408 that the one-year limitations period in § 2614 is subject to equitable tolling. See, e.g., *Kerby v.*
 409 *Mortgage Funding Corp.*, 992 F.Supp. 787, 791-98 (D.Md.1998); *Moll v. U.S. Life Title Ins. Co.*,
 410 700 F.Supp. 1284, 1286-89 (S.D.N.Y.1988). Importantly, the Ninth Circuit, as noted above, has
 411 interpreted the TILA limitations period in *15 U.S.C. § 1640* as subject to equitable tolling; the
 412 language of the two provisions is nearly identical. *King v. California*, 784 F.2d at 914. While not
 413 of precedential value, this Court has previously found both the TILA and RESPA limitations
 414 periods to be subject to equitable tolling. *Blaylock v. First American Title Ins. Co.*, 504
 415 F.Supp.2d 1091, (W.D. Wash. 2007). 1106-07.

416 The Ninth Circuit has explained that the doctrine of equitable tolling "focuses on excusable delay
 417 by the Petitioner," and inquires whether "a reasonable Petitioner would ... have known of the
 418 existence of a possible claim within the limitations period." *Johnson v. Henderson*, 314 F.3d
 419 409, 414 (9th Cir.2002), *Santa Maria v. Pacific Bell*, 202 F.3d 1170, 1178 (9th Cir.2000).
 420 Equitable tolling focuses on the reasonableness of the Petitioner's delay and does not depend on
 421 any wrongful conduct by the Defendants. *Santa Maria*. at 1178.

422 ***BUSINESS PRACTICES CONCERNING DISREGARDING OF UNDERWRITING***
 423 ***STANDARDS***

424 Traditionally, Lenders required borrowers seeking mortgage loans to document their income and
 425 assets by, for example, providing W-2 statements, tax returns, bank statements, documents
 426 evidencing title, employment information, and other information and documentation that could
 427 be analyzed and investigated for its truthfulness, accuracy, and to determine the borrower's
 428 ability to repay a particular loan over both the short and long term. Defendants deviated from and
 429 disregarded these standards, particularly with regard to its riskier and more profitable loan
 430 products.

431 **Low-Documentation/No-Documentation Loans.**

432 Driven by its desire for market share and a perceived need to maintain competitiveness with the
 433 likes of Countrywide, Defendants began to introduce an ever increasing variety of low and no
 434 documentation loan products, including the HARMs and HELOCs described hereinabove, and
 435 began to deviate from and ease its underwriting criteria, and then to grant liberal exceptions to
 436 the already eased underwriting standards to the point of disregarding such standards. This
 437 quickened the loan origination process, allowing for the generation of more and more loans
 438 which could then be resold and/or securitized in the secondary market.

439 Defendants marketed no-documentation/low-documentation loan programs that included
 440 HARMs and HELOCs, among others, in which loans were given based on the borrower's "stated
 441 income" or "stated assets" (SISA) neither of which were verified. Employment was verbally
 442 confirmed, if at all, but not further investigated, and income, if it was even considered as a factor,
 443 was to be roughly consistent with incomes in the types of jobs in which the borrower was
 444 employed. When borrowers were requested to document their income, they were able to do so
 445 through information that was less reliable than in a full-documentation loan.

446 For stated income loans, it became standard practice for loan processors, loan officers and
 447 underwriters to rely on www.salary.com to see if a stated income was reasonable. Such stated
 448 income loans, emphasizing loan origination from a profitability standpoint at the expense of
 449 determining the ability of the borrower to repay the loan from an underwriting standpoint,
 450 encouraged the overstating and/or fabrication of income.

451 **Easing of Underwriting Standards**

452 In order to produce more loans that could be resold in the secondary mortgage market,
 453 Defendants also relaxed, and often disregarded, traditional underwriting standards used to
 454 separate acceptable from unacceptable risk. Examples of such relaxed standards were reducing
 455 the base FICO score needed for a SISA loan.

456 Other underwriting standards that Defendants relaxed included qualifying interest rates (the rate
 457 used to determine whether borrowers can afford the loan), loan to value ratios (the amount of
 458 loan(s) compared to the appraised/sale price of the property, whichever is lower), and debt-to-
 459 income ratios (the amount of monthly income compared to monthly debt service payments and
 460 other monthly payment obligations).

461 With respect to HARMS, Defendants underwrote loans without regard to the borrower's long-
 462 term financial circumstances, approving the loan based on the initial fixed rate without taking
 463 into account whether the borrower could afford the substantially higher payment that would
 464 inevitably be required during the remaining term of the loan.

465 With respect to HELOCs, Defendants underwrote and approved such loans based only on the
 466 borrower's ability to afford the interest-only payment during the initial draw period of the loan,
 467 rather than on the borrower's ability to afford the subsequent, fully amortized principal and
 468 interest payments.

469 As Defendants pushed to expand market share, they eased other basic underwriting standards.
 470 For example, higher loan-to-value (LTV) and combined loan-to-value (CLTV) ratios were
 471 allowed. Likewise, higher debt-to-income (DTI) ratios were allowed. At the same time that they
eased underwriting standards the Defendants also were encouraging consumers to go further into
debt in order to supply the very lucrative aftermarket of mortgage backed securities. The relaxed
underwriting standards created the aftermarket supply they needed. As a result, the Defendants
made it easy for the unwary consumer to take on more debt than he could afford by encouraging

476 unsound financial practices, all the while knowing defaults would occur more and more
 477 frequently as the credit ratios of citizens reached the limit of the new relaxed underwriting
 478 standards.

479 Defendants knew, or in the exercise of reasonable care should have known, from its own
 480 underwriting guidelines industry standards that it was accumulating and selling/reselling risky
 481 loans that were likely to end up in default. However, as the pressure mounted to increase market
 482 share and originate more loans, Defendants began to grant "exceptions" even to its relaxed
 483 underwriting guidelines. Such was the environment that loan officers and underwriters were,
 484 from time to time, placed in the position of having to justify why they did not approve a loan that
 485 failed to meet underwriting criteria.

486 **Risk Layering**

487 Defendants compromised its underwriting even further by risk layering, i.e. combining high risk
 488 loans with one or more relaxed underwriting standards.

489 Defendants knew, or in the exercise of reasonable care should have known, that layered risk
 490 would increase the likelihood of default. Among the risk layering Defendants engaged in were
 491 approving HARM loans with little to no down payment, little to no documentation, and high
 492 DTI/LTV/CLTV ratios. Despite such knowledge, Defendants combined these very risk factors in
 493 the loans it promoted to borrowers.

494 Loan officers and mortgage Agents aided and abetted this scheme by working closely with other
 495 mortgage Lenders/mortgage bankers to increase loan originations, knowing or having reason to
 496 believe that Defendants and other mortgage Lenders/mortgage bankers with whom they did
 497 business ignored basic established underwriting standards and acted to mislead the borrower, all
 498 to the detriment of the borrower and the consumer of loan products..

499 Petitioner is informed and believe, and on that basis allege, that Defendants, and each of them,
 500 engaged and/or actively participated in, authorized, ratified, or had knowledge of, all of the
 501 business practices described above in paragraphs 30-42 of this Complaint

502 **UNJUST ENRICHMENT**

503 Petitioner is informed and believes that each and all of the Defendants received a benefit at
 504 Petitioner's expense, including but not limited to the following: To the Agent, commissions,

505 yield spread premiums, spurious fees and charges, and other "back end" payments in amounts to
 506 be proved at trial; To the originating Lender, commissions, incentive bonuses, resale premiums,
 507 surcharges and other "back end" payments in amounts to be proved at trial; To the investors,
 508 resale premiums, and high rates of return; To the servicers including EMS, servicing fees,
 509 percentages of payment proceeds, charges, and other "back end" payments in amounts to be
 510 proved at trial; To all participants, the expectation of future revenues from charges, penalties and
 511 fees paid by Petitioner when the unaffordable LOAN was foreclosed or refinanced.

512 By their misrepresentations, omissions and other wrongful acts alleged heretofore, Defendants,
 513 and each of them, were unjustly enriched at the expense of Petitioner, and Petitioner was unjustly
 514 deprived, and is entitled to restitution in the amount of \$966,071.39

515 ***CLAIM TO QUIET TITLE.***

516 Petitioner properly averred a claim to quiet title. Petitioner included both the street address, and
 517 the Assessor's Parcel Number for the property. Petitioner has set forth facts concerning the title
 518 interests of the subject property. Moreover, as shown above, Petitioner's claims for rescission
 519 and fraud are meritorious. As such, Petitioner's bases for quiet title are meritorious as well.

520 Defendants have no title, estate, lien, or interest in the Subject Property in that the purported
 521 power of sale contained in the Deed of Trust is of no force or effect because Defendants' security
 522 interest in the Subject Property has been rendered void and that the Defendants are not the holder
 523 in due course of the Promissory Note. Moreover, because Petitioner properly pled all Defendants'
 524 involvement in a fraudulent scheme, all Defendants are liable for the acts of its co-conspirators,

525 "a Petitioner is entitled to damages from those Defendants who concur in the tortious
 526 scheme with knowledge of its unlawful purpose." *Wyatt v. Union Mortgage Co.*, 24 Cal.
 527 3d 773, 157 Cal. Rptr. 392, 598 P.2d 45 (1979); *Novartis Vaccines and Diagnostics, Inc.*
 528 v. *Stop Huntingdon Animal Cruelty USA, Inc.*, 143 Cal. App. 4th 1284, 50 Cal. Rptr. 3d
 529 27 (1st Dist. 2006); *Kidron v. Movie Acquisition Corp.*, 40 Cal. App. 4th 1571, 47 Cal.
 530 Rptr. 2d 752 (2d Dist. 1995).

531 ***SUFFICIENCY OF PLEADING***

532 Petitioner has sufficiently pled that relief can be granted on each and every one of the
 533 Complaint's causes of action. A complaint should not be dismissed "unless it appears beyond
 534 doubt that the Petitioner can prove no set of facts in support of Petitioner claim which would
 535 entitle Petitioner to relief." *Housley v. U.S. (9th Cir. Nev. 1994)* 35 F.3d 400, 401. "All

536 allegations of material fact in the complaint are taken as true and construed in the light most
 537 favorable to Petitioner." *Argabright v. United States*, 35 F.3d 1476, 1479 (9th Cir. 1996).

538 Attendant, the Complaint includes a "short, plain statement, of the basis for relief." Fed. Rule Civ. Proc.
 539 8(a). The Complaint contains cognizable legal theories, sufficient facts to support cognizable legal
 540 theories, and seeks remedies to which Petitioner is entitled. *Balistreri v. Pacifica Police Dept.*, 901 F.2d
 541 696, 699 (9th Cir. 1988); *King v. California*, 784 F.2d 910, 913 (9th Cir. 1986). Moreover, the legal
 542 conclusions in the Complaint can and should be drawn from the facts alleged, and, in turn, the court
 543 should accept them as such. *Clegg v. Cult Awareness Network*, 18 F.3d 752 (9th Cir. 1994). Lastly,
 544 Petitioner's complaint contains claims and has a probable validity of proving a "set of facts" in support of
 545 their claim entitling them to relief. *Housley v. U.S. (9th Cir. Nev. 1994)* 35 F.3d 400, 401. Therefore,
 546 relief as requested herein should be granted.

547 CAUSES OF ACTION

548 **BREACH OF FIDUCIARY DUTY**

549 Defendants Agent, appraiser, trustee, Lender, et al, and each of them, owed Petitioner a fiduciary
 550 duty of care with respect to the mortgage loan transactions and related title activities involving
 551 the Trust Property.

552 Defendants breached their duties to Petitioner by, *inter alia*, the conduct described above. Such
 553 breaches included, but were not limited to, ensuring their own and Petitioners' compliance with
 554 all applicable laws governing the loan transactions in which they were involved, including but
 555 not limited to, TILA, HOEPA, RESPA and the Regulations X and Z promulgated there under.

556 Defendant's breaches of said duties were a direct and proximate cause of economic and non-
 557 economic harm and detriment to Petitioner(s).

558 Petitioner did suffer economic, non-economic harm, and detriment as a result of such conduct,
 559 all to be shown according to proof at trial of this matter.

560 **CAUSE OF ACTION - NEGLIGENCE/NEGLIGENCE PER SE**

561 Defendants owed a general duty of care with respect to Petitioners, particularly concerning their
 562 duty to properly perform due diligence as to the loans and related transactional issues described
 563 hereinabove.

564 In addition, Defendants owed a duty of care under TILA, HOEPA, RESPA and the Regulations
565 X and Z promulgated there under to, among other things, provide proper disclosures concerning
566 the terms and conditions of the loans they marketed, to refrain from marketing loans they knew
567 or should have known that borrowers could not afford or maintain, and to avoid paying undue
568 compensation such as "yield spread premiums" to mortgage Agents and loan officers.

569 Defendants knew or in the exercise of reasonable care should have known, that the loan
570 transactions involving Petitioner and other persons similarly situated were defective, unlawful,
571 violative of federal and state laws and regulations, and would subject Petitioner to economic and
572 non-economic harm and other detriment.

573 Petitioner is among the class of persons that TILA, HOEPA, RESPA and the Regulations X and
574 Z promulgated there under were intended and designed to protect, and the conduct alleged
575 against Defendants is the type of conduct and harm which the referenced statutes and regulations
576 were designed to deter.

577 As a direct and proximate result of Defendant's negligence, Petitioner suffered economic and
578 non-economic harm in an amount to be shown according to proof at trial.

579 **AGENT: COMMON LAW FRAUD**

580 If any Agents' misrepresentations made herein were not intentional, said misrepresentations were
581 negligent. When the Agents made the representations alleged herein, he/she/it had no reasonable
582 ground for believing them to be true.

583 Agents made these representations with the intention of inducing Petitioner to act in reliance on
584 these representations in the manner hereafter alleged, or with the expectation that Petitioner
585 would so act.

586 Petitioner is informed and believes that Agent et al, facilitated, aided and abetted various Agents
587 in their negligent misrepresentation, and that various Agents were negligent in not implementing
588 procedures such as underwriting standards oversight that would have prevented various Agents
589 from facilitating the irresponsible and wrongful misrepresentations of various Agents to
590 Defendants.

591 Petitioner is informed and believes that Agent acted in concert and collusion with others named
 592 herein in promulgating false representations to cause Petitioner to enter into the LOAN without
 593 knowledge or understanding of the terms thereof.

594 As a proximate result of the negligent misrepresentations of Agents as herein alleged, the
 595 Petitioner sustained damages, including monetary loss, emotional distress, loss of credit, loss of
 596 opportunities, attorney fees and costs, and other damages to be determined at trial. As a
 597 proximate result of Agents' breach of duty and all other actions as alleged herein, Plaintiff has
 598 suffered severe emotional distress, mental anguish, harm, humiliation, embarrassment, and
 599 mental and physical pain and anguish, all to Petitioner's damage in an amount to be established
 600 at trial.

601 **PETITIONER PROPERLY AVERRED A CLAIM FOR BREACH OF THE IMPLIED
 602 COVENANT OF GOOD FAITH AND FAIR DEALING.**

603 Petitioner properly pled Defendants violated the breach of implied covenant of good faith and
 604 fair dealing. "Every contract imposes upon each party a duty of good faith and fair dealing in its
 605 performance and its enforcement." *Price v. Wells Fargo Bank*, 213 Cal.App.3d 465, 478, 261
 606 Cal. Rptr. 735 (1989); Rest.2d Contracts § 205. A mortgage Agent has fiduciary duties. *Wyatt v.*
 607 *Union Mortgage Co.*, (1979) 24 Cal. 3d. 773. Further, In *Jonathan Neil & Associates, Inc. v.*
 608 *Jones*, (2004) 33 Cal. 4th 917, the court stated:

609 In the area of insurance contracts the covenant of good faith and fair dealing has taken on a
 610 particular significance, in part because of the special relationship between the insurer and the
 611 insured. The insurer, when determining whether to settle a claim, must give at least as much
 612 consideration to the welfare of its insured as it gives to its own interests. . . The standard is
 613 premised on the insurer's obligation to protect the insured's interests . . . *Id. at 937.*

614 Likewise, there is a special relationship between an Agent and borrower. "A person who
 615 provides Agency services to a borrower in a covered loan transaction by soliciting Lenders or
 616 otherwise negotiating a consumer loan secured by real property, is the fiduciary of the
 617 consumer...this fiduciary duty [is owed] to the consumer regardless of whom else the Agent may
 618 be acting as an Agent for . . . The fiduciary duty of the Agent is to deal with the consumer in
 619 *good faith*. If the *Agent knew or should have known that the Borrower will or has a likelihood of*
 620 *defaulting . . . they have a fiduciary duty to the borrower not to place them in that loan.*"

621 (California Department of Real Estate, *Section 8: Fiduciary Responsibility*, www.dre.ca.gov).
 622 [Emphasis Added].

623 All Defendants, willfully breached their implied covenant of good faith and fair dealing with
 624 Petitioner when Defendants: (1) Failed to provide all of the proper disclosures; (2) Failed to
 625 provide accurate Right to Cancel Notices; (3) Placed Petitioner into Petitioner's current loan
 626 product without regard for other more affordable products; (4) Placed Petitioner into a loan
 627 without following proper underwriting standards; (5) Failed to disclose to Petitioner that
 628 Petitioner was going to default because of the loan being unaffordable; (6) Failed to perform
 629 valid and /or properly documented substitutions and assignments so that Petitioner could
 630 ascertain Petitioner rights and duties; and (7) Failed to respond in good faith to Petitioner's
 631 request for documentation of the servicing of Petitioner's loan and the existence and content of
 632 relevant documents. Additionally, Defendants breached their implied covenant of good faith and
 633 fair dealing with Petitioner when Defendants initiated foreclosure proceedings even without the
 634 right under an alleged power of sale because the purported assignment was not recorded and by
 635 willfully and knowingly financially profiting from their malfeasance. Therefore, due to the
 636 special relationship inherent in a real estate transaction between Agent and borrower, *and* all
 637 Defendants' participation in the conspiracy, the Motion to Dismiss should be denied.

638 ***CAUSE OF ACTION VIOLATION OF TRUTH IN LENDING ACT 15 U.S.C. §1601 ET
 639 SEQ***

640 Petitioner hereby incorporates by reference, re-pleads and re-alleges each and every allegation
 641 contained in all of the paragraphs of the General Allegations and Facts Common to All Causes of
 642 Action as though the same were set forth herein.

643 Petitioner is informed and believes that Defendant's violation of the provisions of law rendered
 644 the credit transaction null and void, invalidates Defendant's claimed interest in the Subject
 645 Property, and entitles Petitioner to damages as proven at trial.

646 ***INTENTIONAL INFILCTION OF EMOTIONAL DISTRESS***

647 The conduct committed by Defendants, driven as it was by profit at the expense of increasingly
 648 highly leveraged and vulnerable consumers who placed their faith and trust in the superior
 649 knowledge and position of Defendants, was extreme and outrageous and not to be tolerated by
 650 civilized society.

651 Defendants either knew that their conduct would cause Petitioner to suffer severe emotional
652 distress, or acted in conscious and/or reckless disregard of the probability that such distress
653 would occur.

654 Petitioner did in fact suffer severe emotional distress as an actual and proximate result of the
655 conduct of Defendants as described hereinabove.

656 As a result of such severe emotional distress, Petitioner suffered economic and non economic
657 harm and detriment, all to be shown according to proof at trial of this matter.

658 Petitioner demands that Defendants provide Petitioner with release of lien on the lien signed by
659 Petitioner and secure to Petitioner quite title;

660 Petitioner demands Defendants disgorge themselves of all enrichment received from Petitioner
661 as payments to Defendants based on the fraudulently secured promissory note in an amount to be
662 calculated by Defendants and verified to Petitioner;

663 Petitioner further demands that Defendants pay to Petitioner an amount equal to treble the
664 amount Defendants intended to defraud Petitioner of which amount Petitioner calculated to be
665 equal to \$2,898,214.17

666 **PRAYER**

667 WHEREFORE, Petitioner prays for judgment against the named Defendants, and each of them,
668 as follows:

669 For an emergency restraining order enjoining lender and any successor in interest from
670 foreclosing on Petitioner's Property pending adjudication of Petitioner's claims set forth
671 herein;

672 For a permanent injunction enjoining Defendants from engaging in the fraudulent,
673 deceptive, predatory and negligent acts and practices alleged herein;

674 For quiet title to Property;

675 For rescission of the loan contract and restitution by Defendants to Petitioner according
676 to proof at trial;

677 For disgorgement of all amounts wrongfully acquired by Defendants according to proof
678 at trial;

679 For actual monetary damages in the amount \$966,071.39;

680 For pain and suffering due to extreme mental anguish in an amount to be determined at
681 trial.
682 For pre-judgment and post-judgment interest according to proof at trial;
683 For punitive damages according to proof at trial in an amount equal to \$2,898,214.17.
684 For attorney's fees and costs as provided by statute; and,
685 For such other relief as the Court deems just and proper.

686 Respectfully Submitted,

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691 Joseph J Coyer
692 Joseph J Coyer

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Janet M. Coyer
Janet M. Coyer

725 JOSEPH J & JANET M COYER
726 878 EAST PREVO ROAD
727 PINCONNING MI48650

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

732
733 Joseph J & Janet M Coyer) Case # 10-14239
734 Plaintiff,)
735)
736 vs.) DEMAND FOR JURY TRIAL
737)
738)
739 HSBC Mortgage Services)
740 Defendant)
741)

Date: October 28,2010

PLAINTIFF'S DEMAND FOR JURY TRIAL

746 Plaintiff, Joseph J & Janet M Coyer, assert their rights under the Seventh Amendment to the
747 U.S. Constitution and demands, in accordance with Federal Rule of Civil Procedure 38, a trial by
748 jury on all issues.

749 Respectfully Submitted,

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751
752
753 
Joseph J Coyer
Joseph J Coyer

Janet M. Coyer

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the local rules of court. This form, approved by the Judicial Conference of the United States, is not a docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

Case 1:10-cv-14339

Judge: Ludington, Thomas L

MJ: Binder, Charles E

Filed: 10-28-2010 At 02:57 PM

CMP Joseph J Coyer, et al v. HSBC M

ortgage Services [bks]

as provided
of initiating**I. (a) PLAINTIFFS**

Joseph J & Janet M Coyer

(b) County of Residence of First Listed Plaintiff Bay
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorney's (Firm Name, Address, and Telephone Number)
filing pro-se, without an attorney**DEFENDANTS**

HSBC Mortgage Services

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Personal Injury	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 400 Other Fraud	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 410 Employment	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 415 Housing/ Accommodations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 892 Economic Stabilization Act
<input checked="" type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	IMMIGRATION	<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 462 Naturalization Application	
			<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee	
			<input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation

Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
TILA (15 U.S.C. 1601) & RESPA (12 U.S.C. 2601)Brief description of cause:
mortgage fraud**VI. CAUSE OF ACTION****VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION
UNDER F.R.C.P. 23**DEMAND \$****2,898,214.17**

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE
10/28/10

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFFP

JUDGE

MAG. JUDGE